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14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 NOORULLAH KHAN,

18 Plaintiff,

19 v.

20 JONATHAN SCHARFEN,
21 Acting Director, United States Citizenship
22 and Immigration Services,

23 Defendant.

24 No. 08-cv-1679 (MMC)

25
26 **STIPULATION TO HOLD
27 MATTERS IN ABEYANCE ;
ORDER THEREON**

28
29 Defendant Jonathan Scharfen and Plaintiff Noorullah Khan hereby stipulate to hold
30 matters in abeyance in the above-referenced case for a period of sixty (60) days from the date of
31 issuance of an order granting the stipulated abeyance. Defendant also agrees to respond to
32 Plaintiff's First Amended Complaint for Declaratory Judgment and Injunction at the close of this
33 sixty (60) day period. In further support thereof, the parties say as follows:

34 1. On January 19, 1999, Plaintiff was granted asylum. On February 22, 2008, he was
35 denied adjustment of status based on inadmissibility due to engaging in terrorist activity by
36 affording material support to a terrorist organization under INA § 212(a)(3)(B)(i)(I), 8 U.S.C. §
37 1182(a)(3)(B)(i)(I) and INA § 212(a)(3)(B)(iv)(VI)(dd), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(dd),
38 respectively.

1 2. On April 23, 2008, USCIS reopened the matter of Plaintiff's adjustment of status.

2 3. On July 24, 2008, Plaintiff filed his First Amended Complaint for Declaratory

3 Judgment and Injunction, which alleges that the delay in adjudication his adjustment of status

4 application violates 5 U.S.C. § 555(b), 8 U.S.C. § 1159(b), and 8 C.F.R. § 209.2.

5 4. Both parties recognize that the Consolidated Appropriations Act of 2008 (CAA of

6 2008), Pub. L. No. 110-161, Div. J, section 691(a), 121 Stat. 1844 (Dec. 26, 2007), provides

7 expanded discretionary authority for the Secretary of Homeland Security to exempt certain

8 terrorist-related inadmissibility grounds as they relate to undesignated terrorist organizations as

9 defined under the Immigration and Nationality Act (INA) section 212(a)(3)(B)(vi)(III), 8 U.S.C.

10 § 1182(a)(3)(B)(vi)(III).

11 5. Defendants are actively pursuing efforts to complete the adjudication of Plaintiff's

12 adjustment of status application within sixty (60) days from the issuance of the abeyance order

13 requested herein.

14 6. In the interest of judicial economy, the potential for adjudication of Plaintiff's

15 adjustment of status application within sixty (60) days from the date of issuance of the abeyance

16 order requested herein merits grant of the abeyance.

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1 WHEREFORE, with good cause having been shown, the parties hereby request that this
2 Court issue an order granting an abeyance of matters in this case for a period of sixty (60) days
3 from the date of issuance of the abeyance order.

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5 Dated: July 31, 2008

Respectfully submitted,

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9 Assistant Attorney General
DAVID J. KLINE
10 Director, District Court Section
GJON JUNCAJ
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13 By:
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ORDER

29 Pursuant to stipulation, IT IS SO ORDERED. Accordingly, the Case Management Conference
30 scheduled for August 29, 2008 is hereby continued to October 31, 2008 at 10:30 a.m. The parties shall
31 file a Joint Case Management Statement no later than October 24, 2008.

32 Dated this 1st day of August, 2008

33 *Maxine M. Chesney*
34 MAXINE M. CHESNEY
35 United States District Judge
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